

To what extent can contemporary human rights discourse be seen to serve the interests of continuing beneficiaries of 'past' evils?

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‘Human Rights Discourse, I have argued, is against the ideologies of both revolution and counterrevolution that dominated much of the twentieth century even while it indirectly carries on significant parts of the counterrevolutionary project’ (Robert Meister, *After Evil*, p. 144). To what extent can contemporary human rights discourse be seen to serve the interests of continuing beneficiaries of ‘past’ evils?

INTRODUCTION

Since the holocaust there occurred a great shift in the political ideologies of the victorious powers of World War – II, into that advocated by supporters of Human Rights. In a new world order this new discourse of “what it means to be human” led to many political powers legitimizing a vision of the world order through capitalism and humanitarianism, much like after the defeat of Napoleon¹ led to the birth of a new global order and the Rights of Man based on the foundations of nationalism and imperialism.

Through this paper, I aim to explore and analyse the nature of contemporary Human Rights Discourse (HRD), turn-of-the-century-politics of human rights and its attempt at bringing justice in post conflict societies. The crux of this essay is based on Robert Meister’s book “*After Evil*”. We will observe his arguments on how human rights discourse in contemporary times does not often result in justice or a vision of the good, as he explains in the first chapter of *After Evil*, but rather is aimed towards the ‘avoidance of evil’.² Robert Meister suggests that the interests of beneficiaries, continuing from times of past evils, is almost entirely served by Human Rights Discourse in this day and age. This base proposition shall be peeled back and looked at in the following, and arguments put forward to that effect.

¹ Robert Meister, *After Evil*, Columbia University Press New York, (2009, pg 2 Disavowing evil)

² Ibid., pg1

To define what Meister refers to when he speaks of the time “after evil” or “past evil”; he is referring to and analyzing the politics of HRD coming after the evil of the twentieth century³. A century that came to be known as a 'century of genocide', after which the denunciation of physical atrocities became an essential element in the fin de siècle conception of what it means to be human, has now become the foundational premise of human rights.⁴

Disagreement over the moral damage suffered by victims, and how exactly must justice be done to them, has been at the heart of political debates surrounding conflicts through revolutions and counter-revolutionary discourse. Political militancy⁵ cleansed the victim of the moral damage that accompanies resentment. The country saw the experience of victimhood as morally damaging in itself, and rejected the revolutionary faith that this damage would be overcome through the redemptive effects of struggle. From the counterrevolutionary perspective, the least just state would be that in which victors rule with the consciousness of victims. The fear beneficiaries of injustice have is of living under rulers who think they are still victims in the ethical basis for condoning regimes they might otherwise concede are unjust.

Meister draws distinctions between the approaches to human rights that emerged towards the fag end of the twentieth century, and that which prevailed prior to the shift in evaluating human rights and actions associated with such rights. What was once looked to “hasten the advance of social equality”⁶, it is now designed to post-pone the large-scale redistribution of what is owed to victims of ‘evil’. The year 1989 onward - when communism fell and the cold war ended – is identified as the period when current Human Rights Discourse emerged, where the “denunciation

³ Meister, Disavowing evil, 1-5

⁴ Ibid., 4 - 5

⁵ Ibid., 5

⁶ Meister, The Ideology and Ethics of Human rights, 23-24

of physical atrocity as such became an essential element in the fin de siècle conception and the foundational premise of human rights advocacy”⁷

Here, Human Rights Discourse (capitalised by Meister as a proper name, Meister, 3), signifies the prioritising of rescue over democracy, the development of the ‘good bomb’ theory⁸, where global superpowers are driven by ‘humanitarian concerns’ stage interventions in societies and governments, involving themselves at various periods of the revolutionary or counter-revolutionary stage in the name of human rights. As Meister puts it, the revolutionary concept of human rights that dominated for the last two hundred years gives way to a counter-revolutionary project that regards the whole of the said period as evil.

This new thought-stream, flowing from a post-idealistic liberal political thought, focuses on the prevention of past evils - universally accepted to have been committed for much of the twentieth century - as opposed to striving for a vision of universal societal good, however idealistic it may sound. It is considered superior to that of the actors involved in global revolution and counterrevolution, who derived inspiration from the 1789 Declaration of the Rights of Man⁹.

He further argues that this idealistic notion of what it means to be human at time that was considered the end of history failed to effectively address the true perpetrators of evils past. Human rights was now aimed at more detached parties in post-conflict times; potential rescuers, governments, NGOs - in other words parties that had not interfered for better or worse during times of conflict, those who had done nothing or too little.¹⁰ According to Meister, human rights now served as a tool that would enable them “to regard their humanitarian intervention as legitimated by the physical suffering already occurring on the ground.”¹¹

⁷ Meister, 1

⁸ Meister, 5-6 (Referring to the current HRD of ‘Bombs that rescue’)

⁹ Ibid., 2

¹⁰ Meister, 1-2

¹¹ Ibid., 2

This new Human Rights Discourse relies on the newly formed ‘world community’¹², on whom the burden falls to protect those suffering and to prevent atrocities being repeated in the present time, which were not prevented before. Basis this, world powers are able to justify ethically the violence possibly perpetuated in the rescue of victims of evil, whether or not the victims ask for assistance. The idea of ‘rescuing’ and ‘preventing’ the repetition of evil has been given precedence over the political implications, domestic and international, over interventions undertaken by the likes of ethical intervenors like the United States in Vietnam, for example¹³.

It is inherent to establish early on that Meister’s book is not unsupportive of the condemnation of human rights violators. His main aim, rather, is to critique the HRD that became globally predominant after the fall of communism in 1989, which was also the time when the revolutionary and counterrevolutionary discourses concluded. The world was said to be in an era that was considered the end of history where the world community began to exist with a globally articulated and accepted discourse of human rights which claimed to supersede the cruelties perpetrated by actors in both the revolutionary and the counter-revolutionary project.

This new world community established itself as a hegemony that could assert itself in times of conflict and crisis and intervene when large-scale human rights abuses were committed by another. However, as Meister points out, it is key to understand that this ‘self-described’ world community and its many supporters of human rights failed to intervene in 1994, during the Rwandan Genocide that claimed 500,000 to 1,000,000 Rwandans lives, about 70% of the Tutsi population.¹⁴

¹² Ibid., 4-5

¹³ Ibid.,4

¹⁴ Rwanda: How the genocide happened, Africa Recovery, Vol. 12 1#1 (August 1998), p. 4,

This lack of intervention on behalf of the world community¹⁵ leads us to observe that as an emerging hegemon, the ideology and ethics of the world community and human rights advocates assumes that it will intervene when it can¹⁶ to prevent repetitive human rights violations.

Furthermore, it establishes that the world community chooses to intervene first and investigate later. While this is seen as a perfectly reasonable and ethical recourse to most and to the “bewildered masses” at large,¹⁷ Meister illustrates his argument as to how this is not so through the example of the United States of America as an emerging “ethical intervener”¹⁸:

“For an ethical intervener, such as the U.S., to be overly concerned today about its own potential role as an imperialist is, according to this view, at best an anachronism and at worst the same old craven excuse for doing nothing that allowed the horrors of the twentieth century to take place.”

Today, the international community or global community places the cardinal responsibility of restoring justice and stability in post conflict societies through the integration of human rights and the various measures and solutions that fall under its spectrum of ‘rescue’, ‘intervention’ and ‘reconciliation’. This is with the latent understanding that, as Meister puts it, “victims of past evil will not struggle against its ongoing beneficiaries after the evildoers are gone.”¹⁹

While many scholars argue that this is a progressive means of action, Meister’s contradictory view presents that through this approach of rescue and reconciliation; contemporary HRD demonstrates that in order to move forward one must believe that the “evil is past”²⁰ This attaches a transitional nature of justice²¹ and retribution that is sentenced to the wrong doers and

¹⁵ See, e.g., Samantha Power, “Bystanders to Genocide,” *Atlantic Monthly* 288, no. 2 (2001); Power, “A Problem From Hell,” chap. 10. e failures of the UN mission are described by its commander on the ground in Roméo Dallaire and Brent Beardsley, *Shake Hands with the Devil: The Failure of Humanity in Rwanda* (New York: Carroll and Graf, 2004).

¹⁶ Meister, 3

¹⁷ Walter Lippmann, on mass culture

¹⁸ Meister, 15

¹⁹ *Ibid.*, 9

²⁰ Meister, 6-8

²¹ *Ibid.*, 10

beneficiaries of evils past. Here, victims are never really victorious, but are considered to be morally undamaged because they choose to end the struggle-for-justice and move towards the path of reconciliation and have thus put oppression in the past.²² This measure is one of many that fall under the Human Rights Discourse helps us observe the moral rhetoric of the second chance that distinguishes human rights from earlier revolutionary versions. This provides hope for those who have not spoken up but have been indifferent to the struggles and atrocities suffered by others, to help reconcile, or avoid judgment on the past, it is inherent we observe Meister's critique on it through the following excerpt from the book:

“Carving out a time in which our sins are no longer a continuation of the past is characteristic of periods of transitional justice. Such periods are typically marked by an unstable equipoise between Redemption and Reconstruction. Redeemers believe that the present actions must no longer be judged as a continuation of a past evil that has been confessed. Re-constructionists counter that the time for change has accelerated and is already running out. Both sides presuppose that their debate occurs in a special kind of time—accelerated time, abbreviated time, slow time, supplementary time— which comes before the onset of the future but are the end of the now discredited past.”²³

Through this we can observe how Meister stresses upon the transitional nature of justice that takes place after conflict through the implementation of HRD, and that to believe that the past was evil, it is not inherently necessary to believe that the evil is past.²⁴ Let me illustrate this course of thought further through the example of Africa during its time after the apartheid. In 1994, after nearly 50 years of apartheid and hundreds of years of racial violence and oppression, South Africa made a peaceful transition to a more democratically elected government, a departure from one based on elections in which only whites were permitted to vote. Apartheid, created by the white National Party and based on the system of segregation that arose after Europeans colonized the area, affected every aspect of life, from where people lived

²² Ibid., 7

²³ Ibid., 13

²⁴ Ibid., 14

and the conditions of their housing, to where they went to school and the kind of education they received, to whom they could marry. Apartheid meant total separation by color.

As the apartheid era ended, South Africa's interim constitution suggested the creation of some sort of reconciliation process as an alternative to prosecutions or trials.

A Truth Commission was set up in 1995 to establish a public record of the apartheid years through the voices and experiences of both victims and perpetrators.²⁵ The TRC was not intended to be the only way to bring to light and attempt to rectify the massive human-rights violations committed under apartheid, but it was a crucial one.

The Truth and Reconciliation Commission focused on what had happened in South Africa between 1960 and 1994. This included political crimes of mass violence committed by black South Africans along with the much larger number of abuses committed by white South Africans on behalf of the state. The TRC mandate said that “to achieve unity and morally acceptable reconciliation, it is necessary that the truth about gross violations of humans rights be established by an official investigation unit using fair procedures; fully and unreservedly acknowledged by the perpetrators; made known to the public, together with the identity of the planners, perpetrators, and victims.”²⁶

In a trial, the focus is on the perpetrator. At the TRC hearings, the focus was on the victims and their families. As TRC Commissioner Alex Bouraine said, “To ignore what happened to thousands of people who were victims of abuse under apartheid is to deny them their basic dignity. It is to condemn them to live as nameless victims with little or no chance to begin their lives over again.”²⁷ During the period of transition that marked the end of the apartheid in South

²⁵ <https://Meister.facinghistory.org/holocaust-and-human-behavior/chapter-11/transitional-justice-south-africa>

²⁶ “Explanatory Memorandum to the Parliamentary Bill,” The South African Truth and Reconciliation Commission, accessed June 26, 2016.

²⁷ Meister, 71

Africa, Truth and Reconciliation Commissions (TRCs) aimed to assimilate the wounded population of South Africa into a mode of thought whose goal was to grant them a moral victory²⁸ after the struggles of the apartheid. This idea discarded the supposition of an armed struggle to achieve justice in exchange for a better morally victorious method over apartheid. George Fredrickson described this negotiated compromise as:

“The entrenchment of market capitalism and the recognition of most existing white property rights was the price that had to be paid to open up the political system to Africans by some means short of actually driving the whites from power over a prolonged and bloody revolutionary struggle... Major reform, with revolutionary implications for the racial status order but not for the character of other social and economic relationships, is one way to describe what has taken place in South Africa.”²⁹

However, as time went by, TRC’s became the only tool of transitional justice -reparations and prosecutions, for example, were expected to be used much more widely than they actually were. Also, the daily humiliations and more “ordinary”³⁰ violence of apartheid were not addressed by the TRC. Nor was the participation in the system by average white South Africans and the ways that they benefited simply by being white—and the ways that whites continue to benefit today, even though apartheid is over. A new generation of South Africans is actively questioning how adequately the legacies of apartheid have been dealt with, when reforms of the economy, the judiciary, and the education system remain incomplete.

It can be thus seen that the implementation of TRCs puts forth the assumption that the struggle for justice has ended since now, and all those who have suffered have emerged victorious, morally or symbolically. However, if we look at the loopholes of this mode of thought we can observe that in life after the evil is past, it is important to question whether this moral victory was consistent with the agenda of liberation movement and its goals, and its

²⁸ Ibid., 10

²⁹ Ibid., 71

³⁰ <https://Meister.facinghistory.org/holocaust-and-human-behavior/chapter-11/transitional-justice-south-africa>

inconsistency between having won the democratic struggle for majority rule while also keeping mind the ongoing struggle against capitalist exploitation in the country.

In this case Human Rights Discourse nullifies the goals of these struggles and represents its own logic for reconciliation as substantial, as opposed to the logic of the revolutionary struggle. It aims to shift once-divided societies from a moral psychology of struggle to one of reconciliation. The goal of Human Rights Discourse today, is that victims of past evil will not struggle against its ongoing beneficiaries after the evildoers are gone.

With regard to the example of South Africa, Meister points out by doing so the subject of justice for victims, and the sentencing of perpetrators and beneficiaries of the atrocities suffered by the people of South Africa are abandoned by the superseded idea of ‘winning.’³¹ Thus, the main idea that post-cold war humanitarianism claims to supersede is the revolutionary logic of justice-as-struggle. This ideology had a social theory³² - to display to victims that their suffering has beneficiaries, and implemented practices that would help them identify these beneficiaries as would-be perpetrators when their interests were threatened, and ultimately victims would be able to liberate themselves through revolution, in many ways ensuring that beneficiaries of evils past no longer continue to benefit in post conflict societies and nations.

If the category of victimhood is constructed by the ultimate refusal to distinguish between the perpetrators and beneficiaries of evil, it can then be deconstructed in the aftermath of struggle through institutional practices that reinstate such distinction. This is where the success of the Truth and Reconciliation Commissions lies, the solutions along its spectrum effectively marginalize ‘unreconciled victims’³³ of revolutionary theory who see the beneficiaries of

³¹ Meister, 52

³² Ibid., 22

³³ Meister, 32-33

oppression as would-be perpetrators and who wage a righteous struggle against the beneficiary and perpetrator alike.

This motivation of resolving the problem in post-conflict areas replaces the unreconciled victims with a morally undamaged victim. This is demonstrated by the victim's willingness to distinguish between perpetrators and beneficiaries. With respect to this Meister says:

“According to this liberal script, passive beneficiaries of social injustice will not feel guilt but rather will identify with the innocence of idealized victims whose ability to transcend their suffering reveals that they were never really a threat. is new social compact between undamaged victims and passive beneficiaries presupposes that the unreconciled victim has been damaged by the past and that the beneficiaries of past evil would have been justified in hearing that victim's voice as a threat. Reconciled victims, however, get to “win” in this liberal scenario and to be relatively safe, but only on the condition that they demand little more than this from their putative victory. For them moral victory must be victory enough. As explained in chapter 1, the acknowledgment of moral damage on the part of victims reverses the logic of “consciousness-raising” through which unreconciled victims might have become revolutionaries in the period when evil still ruled. The TRC process thus treats reconciliation as a moral (and not merely political) imperative that is no less part of our conception of justice than the capacity for righteous struggle against injustice.”³⁴

Meister also helps us understand why according to the TRCs it is important for victims to assume themselves as morally undamaged. He does this with the example of Winnie Mandela who implicitly never admitted herself as morally undamaged, and who insisted that the anti-apartheid struggle was not over. Once the victim assumes himself or herself as morally undamaged, he falls prey to the concept of justice-as-reconciliation³⁵ that according to Meister “provides a clear notion of winning”, a quality lacking in the revolutionary model of justice. This emphasizes how TRCs marginalize those who do not tether to the concept of forgive and forget in post conflict atmospheres, are often made out to be unreconciled with the past, but also capable of criminal behavior.

³⁴ Ibid., 53

³⁵ Meister, 54

It now allows, however, for the accumulation of past injustices to affect the present. Rather than diminishing, such past injustices compound without any hope of redress. Meister further draws a distinction between the perpetrators of past evils, the bystanders who through passive non-action allowed the persistence of evil, and the beneficiary who implicitly or explicitly gained from the carrying out of evil.

Current HRD is largely void of victim/beneficiary relation, but rife with victim/perpetrator relations. This discourse advocates trials and truth courts where individuals are shouldered with the responsibility of their past actions, and puts on a spectacle for the victim to attain some semblance of resolution. However, in its drive to to end the ‘cyclic nature of revolutionary violence’ in justice-as-reconciliation of victims and perpetrators in post-revolution/post counter-revolution society, the fine line distinguishing bystanders and beneficiaries is slowly rubbed out. Everyone is given a second chance, and the procedural aspects of the rule of law helps absolve old beneficiaries of their complicity, “de-collectivising both injury and responsibility, and re-describing systemic violence as a series of individual crimes”.³⁶ Meister terms this exactly as the objective of Human Rights Discourse, when beneficiaries of an old order acknowledge as evil the circumstances that continue to benefit them, but recognizes that such an acknowledgement is a substitute for an absence of redistributive economics, and is an indicator to victims to leave the evil in the past and move on with their lives. No matter that the advantage to the beneficiaries stays intact, and continues to do so.

In this sense, the constitution of truth commissions and special trials deals nothing more than a rap on the knuckles of perpetrators, and a signing off on the ‘clear consciences’ of beneficiaries, current included. The ideals of justice-as-reconciliation is to morally accept the

³⁶ Meister, 28

continuation of inequality as a natural consequence of past evil. As Meister says, "...'transition' presents itself as a period of grace in which redistributive claims in the name of victims are indefinitely deferred"³⁷. In other words, the time for justice is never really now.

Does the arrival at a moral consensus that the past was evil necessitate that the evil is in the past, and that the current beneficiaries are not perpetrators? If this view is to be accepted, then current inequalities are historically disconnected from past structures of oppression, domination and injustice purely through recognition that such structures were unjust.

This allows the pursuit of forward-looking justice that does not regard persistent unjust structural effects of past historical crimes.

Truth commissions and the like, in this light, can be seen as systems to reassure beneficiaries that their ongoing advantages will be protected to some degree, at the very least from allegations of 'revival of past injustices'. It can thus be said that "the human rights culture established in the twenty-first century is a continuation of the counter-revolutionary project of the twentieth century – to assure that beneficiaries of past oppression will largely be permitted to keep the unjustly produced enrichment they presently enjoy."

³⁷ Ibid., 29